

(e) Paragraphs (a)(2) through (a)(4), and (b)(2) through (b)(4) of § 229.141 do not apply to “passenger equipment” as defined in § 238.5 of this chapter that is placed in service for the first time on or after September 8, 2000, unless such equipment is excluded from the requirements of §§ 238.203 through 238.219, and § 238.223 of this chapter by operation of § 238.201(a)(2) of this chapter.

[54 FR 33229, Aug. 14, 1989, as amended at 64 FR 25659, May 12, 1999]

#### § 229.4 Information collection.

(a) The information collection requirements in this part have been reviewed by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Public Law 96-511, and have been assigned OMB control number 2130-0004.

(b) The information collection requirements are found in the following sections:

- (1) Section 229.9.
- (2) Section 229.17.
- (3) Section 229.21.
- (4) Section 229.23.
- (5) Section 229.25.
- (6) Section 229.27.
- (7) Section 229.29.
- (8) Section 229.31.
- (9) Section 229.33.
- (10) Section 229.55.
- (11) Section 229.103.
- (12) Section 229.105.
- (13) Section 229.113.
- (14) Section 229.135.

[50 FR 6953, Feb. 19, 1985, as amended at 58 FR 36613, July 8, 1993]

#### § 229.5 Definitions.

As used in this part—

(a) *Break* means a fracture resulting in complete separation into parts.

(b) *Cab* means that portion of the superstructure designed to be occupied by the crew operating the locomotive.

(c) *Carrier* means *railroad*, as that term is defined below.

(d) *Control cab locomotive* means a locomotive without propelling motors but with one or more control stands.

(e) *Crack* means a fracture without complete separation into parts, except that castings with shrinkage cracks or hot tears that do not significantly diminish the strength of the member are not considered to be cracked.

(f) *Dead locomotive* means—

(1) A locomotive other than a control cab locomotive that does not have any traction device supplying tractive power; or

(2) A control cab locomotive that has a locked and unoccupied cab.

(g) *Event recorder* means a device, designed to resist tampering, that monitors and records data on train speed, direction of motion, time, distance, throttle position, brake applications and operations (including train brake, independent brake, and, if so equipped, dynamic brake applications and operations) and, where the locomotive is so equipped, cab signal aspect(s), over the most recent 48 hours of operation of the electrical system of the locomotive on which it is installed. A device, designed to resist tampering, that monitors and records the specified data only when the locomotive is in motion shall be deemed to meet this definition provided the device was installed prior to [insert the effective date of the rule] and records the specified data for the last eight hours the locomotive was in motion.

(h) *High voltage* means an electrical potential of more than 150 volts.

(i) *In-service event recorder* means an event recorder that was successfully tested as prescribed in § 229.25(e) and whose subsequent failure to operate as intended, if any, is not actually known by the railroad operating the locomotive on which it is installed.

(j) *Lite locomotive* means a locomotive or a consist of locomotives not attached to any piece of equipment or attached only to a caboose.

(k) *Locomotive* means a piece of on-track equipment other than hi-rail, specialized maintenance, or other similar equipment—

(1) With one or more propelling motors designed for moving other equipment;

(2) With one or more propelling motors designed to carry freight or passenger traffic or both; or

(3) Without propelling motors but with one or more control stands.

(l) *MU locomotive* means a multiple operated electric locomotive described in paragraph (i)(2) or (3) of this section.

(m) *Powered axle* is an axle equipped with a traction device.

(n) *Railroad* means all forms of non-highway ground transportation that run on rails or electromagnetic guideways, including (1) commuter or other short-haul rail passenger service in a metropolitan or suburban area, and (2) high speed ground transportation systems that connect metropolitan areas, without regard to whether they use new technologies not associated with traditional railroads. Such term does not include rapid transit operations within an urban area that are not connected to the general railroad system of transportation.

(o) *Serious injury* means an injury that results in the amputation of any appendage, the loss of sight in an eye, the fracture of a bone, or the confinement in a hospital for a period of more than 24 consecutive hours.

[45 FR 21109, Mar. 31, 1980, as amended at 54 FR 33229, Aug. 14, 1989; 58 FR 36613, July 8, 1993; 60 FR 27905, May 26, 1995]

**§ 229.7 Prohibited acts.**

(a) The Locomotive Inspection Act (45 U.S.C. 22–34) makes it unlawful for any carrier to use or permit to be used on its line any locomotive unless the entire locomotive and its appurtenances—

(1) Are in proper condition and safe to operate in the service to which they are put, without unnecessary peril to life or limb; and

(2) Have been inspected and tested as required by this part.

(b) Any person (an entity of any type covered under 1 U.S.C. 1, including but not limited to the following: a railroad; a manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor) who violates any requirement of this part or of the Locomotive Inspection Act or causes the violation of any such requirement is subject to a civil penalty of at least \$500 and not more than \$11,000 per violation, except that: Penalties may be assessed against individuals only for willful violations, and, where a grossly negligent violation or a pattern of re-

peated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty not to exceed \$22,000 per violation may be assessed. Each day a violation continues shall constitute a separate offense. See appendix B to this part for a statement of agency civil penalty policy.

[45 FR 21109, Mar. 31, 1980, as amended at 53 FR 28601, July 28, 1988; 53 FR 52931, Dec. 29, 1988; 63 FR 11622, Mar. 10, 1998]

**§ 229.9 Movement of non-complying locomotives.**

(a) Except as provided in paragraphs (b), (c) and § 229.125(h), a locomotive with one or more conditions not in compliance with this part may be moved only as a lite locomotive or a dead locomotive after the carrier has complied with the following:

(1) A qualified person shall determine—

(i) That it is safe to move the locomotive; and

(ii) The maximum speed and other restrictions necessary for safely conducting the movement;

(2)(i) The engineer in charge of the movement of the locomotive shall be notified in writing and inform all other crew members in the cab of the presence of the non-complying locomotive and the maximum speed and other restrictions determined under paragraph (a)(1)(ii) of this section.

(ii) A copy of the tag described in paragraph (a)(3) of this section may be used to provide the notification required by paragraph (a)(2)(i) of this section.

(3) A tag bearing the words “non-complying locomotive” and containing the following information, shall be securely attached to the control stand on each MU or control cab locomotive and to the isolation switch or near the engine start switch on every other type of locomotive—

(i) The locomotive number;

(ii) The name of the inspecting carrier;

(iii) The inspection location and date;

(iv) The nature of each defect;

(v) Movement restrictions, if any;

(vi) The destination; and